

REMARKS

The Examiner's Office Action of July 15, 2003 has been received and its contents reviewed. Applicant would like to thank the Examiner for the consideration given to the above-identified application.

By the above actions, claims 1, 6, 11, 16, 21 and 28 have been amended. Accordingly, claims 1-34 are pending for consideration, of which claims 1, 6, 11, 16, 21 and 28 are independent. In view of these actions and the following remarks, reconsideration of this application is now requested.

Referring now to the detailed Office Action, the disclosure is objected to because of the various informalities. In response to the objection, Applicants have amended the title of the invention, as shown above. Further, the specification is amended as shown above to correct the spelling of "Corning".

Claims 1-34 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-27 of U.S. Patent No. 5,403,772 (Zhang et al. – hereafter the '772 patent). Further, claims 2-5, 7-10, 12-15, 17-20, 22-27 and 29-34 also stand rejected as dependent upon the rejected independent claims. In response to the double-patenting rejection, Applicants have amended the claims, as shown above, in order to more clearly distinguish the claimed invention from the claims of the '772 patent.

Each independent claim of the present application has been amended so as to include a feature that the second crystallizing step is after the first crystallizing step, which is supported at least, on e.g., page 7, lines 23-28 of the specification. Therefore, independent claims 1, 11 and 21 recite the first crystallization takes place in an atmosphere comprising oxygen and the second crystallization takes place in an atmosphere comprising hydrogen after the first crystallization. Independent claims 6, 16 and 28 recite the first crystallization takes place in an atmosphere comprising oxygen and the second crystallization in an atmosphere comprising nitrogen after the first crystallization.

Applicants respectfully note that the present application is a divisional of the '772 patent and is commonly assigned to Semiconductor Energy Laboratory Co., Ltd, and claims 1-27 of the '772 patent and the instant claims 1-34 are patentably distinct. As discussed above, amended claims 1, 11 and 21 recite the first crystallization takes place in an atmosphere comprising oxygen and the second crystallization takes place in an atmosphere

comprising hydrogen after the first crystallization, and amended independent claims 6, 16 and 28 recite the first crystallization takes place in an atmosphere comprising oxygen and the second crystallization in an atmosphere comprising nitrogen after the first crystallization, while the '772 patent claims the steps of selectively forming on a substrate a substance containing a material having a catalytic action, forming on the substrate a silicon film substantially in an amorphous state in contact with the substrate, and annealing the substrate in an atmosphere comprising at least one of oxygen, nitrogen and hydrogen.

Clearly, the '772 patent does not claim, for example, the particular order of crystallizing and the specific type of gas used in each crystallizing step as in Applicants' independent claims. Moreover, the dependent claims of the '772 patent further distinguish from Applicants' claimed invention with additional limitations that are not recited in Applicants' pending claims.

Applicants respectfully direct the Examiner's attention to MPEP, section 804 (II)(B)(1), which provides guidelines for determining a non-statutory double patenting rejection, and which states that the disclosure of the patent (cited in the obviousness-type double patenting rejection) may not be used as prior art. In accordance with the MPEP, Applicants respectfully request the Examiner to consider the above-mentioned distinctive features of the presently claimed invention and to not rely on the disclosure of the '772 patent in the rejection. Should the Examiner still maintain the double patenting rejection, Applicants will respectfully request the Examiner to provide specific analysis to show the claimed features of the '772 patent that are alleged not patentably distinct from the presently claimed invention.

In view of the amendments and arguments set forth above, and in view, Applicants respectfully submit that the amended claims are patentably distinct from claims 1-24 of the '772 patent. Hence, reconsideration and withdrawal of all the objection to the specification and the obviousness-type double patenting rejection is respectfully requested.

While the present application is now believed to be in condition for allowance, should the Examiner find some issue to remain unresolved, or should any new issues arise, which

could be eliminated through discussions with Applicant's representative, then the Examiner is invited to contact the undersigned by telephone in order that the further prosecution of this application can thereby be expedited.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'Luan C. Do', written over a horizontal line.

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